

1-1 By: Darby, et al. (Senate Sponsor - Nichols) H.B. No. 2174  
1-2 (In the Senate - Received from the House May 3, 2017;  
1-3 May 4, 2017, read first time and referred to Committee on  
1-4 Transportation; May 19, 2017, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;  
1-6 May 19, 2017, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Nichols	X		
1-10	Hall	X		
1-11	Creighton	X		
1-12	Garcia	X		
1-13	Hancock	X		
1-14	Hinojosa	X		
1-15	Kolkhorst	X		
1-16	Perry	X		
1-17	Rodríguez	X		

1-18 COMMITTEE SUBSTITUTE FOR H.B. No. 2174 By: Nichols

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to the regulation of motor fuel quality and motor fuel  
1-22 metering devices; authorizing fees.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Section 13.001(a), Agriculture Code, is amended  
1-25 by adding Subdivision (1-a) to read as follows:

1-26 (1-a) "Motor fuel metering device" means a commercial  
1-27 weighing or measuring device used for motor fuel sales with a  
1-28 maximum flow rate of 20 gallons per minute or less.

1-29 SECTION 2. Section 13.029, Agriculture Code, is amended to  
1-30 read as follows:

1-31 Sec. 13.029. EXEMPTION OF WEIGHING OR MEASURING DEVICES.

1-32 (a) The department by rule may exempt a weighing or measuring device  
1-33 from a requirement established by this chapter if the department  
1-34 determines that imposing or enforcing the requirement:

1-35 (1) is not cost-effective for the department;

1-36 (2) is not feasible with current resources or  
1-37 standards; or

1-38 (3) will not substantially benefit or protect  
1-39 consumers.

1-40 (b) A motor fuel metering device is exempt from the  
1-41 requirements of this chapter if the motor fuel metering device is  
1-42 not used to:

1-43 (1) calculate the amount of fuel sold in a commercial  
1-44 transaction; or

1-45 (2) compute the charge for service.

1-46 SECTION 3. Section 13.101, Agriculture Code, is amended by  
1-47 adding Subsection (e) to read as follows:

1-48 (e) This section does not apply to a motor fuel metering  
1-49 device.

1-50 SECTION 4. Section 13.1011, Agriculture Code, is amended by  
1-51 adding Subsection (e) to read as follows:

1-52 (e) This section does not apply to a motor fuel metering  
1-53 device.

1-54 SECTION 5. Subchapter C, Chapter 13, Agriculture Code, is  
1-55 amended by adding Sections 13.1015, 13.1016, and 13.1017 to read as  
1-56 follows:

1-57 Sec. 13.1015. INSPECTION OF MOTOR FUEL METERING DEVICES.

1-58 (a) Unless a motor fuel metering device is exempt from the  
1-59 application of this section by department rule, a motor fuel  
1-60 metering device shall be inspected, tested, and calibrated for

correctness by a license holder under Subchapter I at least once every two years if the device is:

(1) kept for sale, sold, or used by a proprietor, agent, lessee, or employee in proving the measure of motor fuel; or

(2) purchased, offered, or submitted by a proprietor, agent, lessee, or employee for sale, hire, or award.

(b) Inspection, testing, and calibration under this section must be performed by a license holder under Subchapter I under contract with the operator or user of the motor fuel metering device.

Sec. 13.1016. REQUIRED REGISTRATION OF MOTOR FUEL METERING DEVICES. (a) Unless a motor fuel metering device is exempt from the application of this section by department rule, a person who owns or operates a motor fuel metering device shall register the device with the department before using the device for a commercial transaction.

(b) An application for a device registration must:

(1) be submitted to the department on a form prescribed by the department;

(2) be accompanied by any other document or form required by the department;

(3) include the registration fee required under Section 13.1151; and

(4) include documentation of compliance with Section 13.1015.

(c) A registration under this section is valid for one year unless a different period is established by department rule. The registration must be renewed at or before the end of each registration period and the application for renewal must include documentation of compliance with Section 13.1015.

(d) If a person fails to register or renew a registration as required by this section, the department may not issue a certificate to operate the motor fuel metering device. The department shall issue the certificate when the operator submits to the department the items required by Subsection (b).

(e) The department may assess a late fee if the registration of one or more devices located on a premises is renewed after the end of the registration period because of a registration error, including one or more devices not properly registered, failure to register the correct type of device, or failure to timely register a previously registered device. The amount of the penalty may not exceed \$50 per device, with a maximum penalty amount of \$500 per year for the premises.

Sec. 13.1017. COMPLAINTS REGARDING MOTOR FUEL METERING DEVICES. (a) The department shall receive complaints regarding motor fuel metering devices.

(b) After receiving a complaint regarding a motor fuel metering device, the department shall determine the date the device was last inspected under Section 13.1015 and the number of complaints received by the department in the previous 12 months regarding motor fuel metering devices at the premises where the device subject to the complaint is located.

(c) The department shall notify the person who last registered the motor fuel metering device and take no further action on the complaint if:

(1) the motor fuel metering device was last inspected not more than 18 months before the date the complaint is received; and

(2) the department received not more than two complaints in the previous 12 months regarding motor fuel metering devices at the premises where the device is located.

(d) The department shall notify the person who last registered the motor fuel metering device and require the device to be inspected by a license holder under Section 13.1015 not later than one month after the notification date if:

(1) the motor fuel metering device was last inspected more than 18 months before the date the complaint is received; or

(2) the department received at least three complaints in the previous 12 months regarding motor fuel metering devices at

the premises where the device is located.

SECTION 6. Section 13.114, Agriculture Code, is amended to read as follows:

Sec. 13.114. TOLERANCES. The department shall establish specifications and tolerances for commercial weighing or measuring devices used in this state. The specifications and tolerances shall be similar to those recommended by the National Institute of Standards and Technology, except that the specifications and tolerances for motor fuel metering devices shall be the same as those recommended by the National Institute of Standards and Technology.

SECTION 7. Section 13.1151, Agriculture Code, is amended to read as follows:

Sec. 13.1151. FEES FOR REGISTRATION AND INSPECTION. (a) The department may charge the owner or operator of a weighing or measuring device a fee, as provided by department rule, to recover the costs of registration and inspection of a weighing or measuring device required to be registered or inspected under this chapter.

(b) Notwithstanding any other law, the department may not in a state fiscal biennium increase a fee under Subsection (a) for a motor fuel metering device by an amount that exceeds 10 percent of the amount of the fee at the end of the preceding state fiscal biennium.

SECTION 8. Section 17.072, Agriculture Code, is amended by amending Subsections (a) and (b) and adding Subsection (a-1) to read as follows:

(a) The department or a representative of the department may collect samples and conduct testing at any location where motor fuel is kept, transferred, sold, or offered for sale, to verify that the motor fuel complies with the minimum standards required by Section 17.071.

(a-1) The collection of samples and conducting of testing at a dealer's location must be performed by a license holder under Subchapter I, Chapter 13, under contract with the dealer. The license holder is considered a representative of the department for purposes of this section.

(b) On arriving at a facility to conduct testing under Subsection (a), a representative of the department shall notify the owner or manager of the facility of the representative's presence and purpose. The department representative shall follow the most recent applicable procedures specified by ASTM International Standard D4057, D4177, D5842, or D5854 for the collection, sampling, and handling of fuel to prepare for laboratory analysis.

SECTION 9. Section 17.073(a), Agriculture Code, is amended to read as follows:

(a) If the department has laboratory results to confirm ~~[reason to believe]~~ that motor fuel is in violation of this chapter or a rule adopted under this chapter, or that the motor fuel is being sold or offered for sale in a manner that violates this chapter or a rule adopted under this chapter, the department may:

(1) issue and enforce a written order to stop the sale of the motor fuel;

(2) place on a device used to dispense the motor fuel a tag or other mark with the words "Out of Order"; or

(3) stop the sale of the motor fuel and mark a device used to dispense the motor fuel as out of order.

SECTION 10. This Act takes effect September 1, 2017.

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